



## U.S. DEPARTMENT of STATE

### Bosnia and Herzegovina

#### Country Reports on Human Rights Practices - [2003](#)

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The 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Accords) created the independent state of Bosnia and Herzegovina (BiH), previously one of the constituent republics of Yugoslavia. The Agreement also created two multiethnic constituent entities within the state: The Federation of Bosnia and Herzegovina (the Federation) and the Republika Srpska (RS), along with the independent District of Brcko. The Federation has a postwar Bosnian Muslim (Bosniak) and Croat majority, while the RS has a postwar Bosnian Serb majority. The Constitution (Annex 4 of the Dayton Accords) established a federal democratic republic and assigned many governmental functions to the two entities, which have their own governments. The Accords also provided for the Office of the High Representative (OHR) to oversee implementation of civilian provisions. The OHR has the power to impose legislation and remove officials who obstruct the implementation of the Dayton Accords. Candidates of the three main nationalist parties, the Bosniak Party for Democratic Action (SDA), the Serb Democratic Party (SDS), and the Croatian Democratic Union (HDZ), won seats to the tripartite BiH Joint Presidency in elections in 2002 that were regarded as generally free and fair; Bosnian Croat Dragan Covic, Bosnian Serb Borislav Paravac, and Bosniak Sulejman Tihic make up the BiH Presidency. In the Federation, the President, Niko Lozancic, appointed the Prime Minister, Ahmet Hadzipasic, subject to parliamentary approval. In the RS, the President, Dragan Cavic, and vice presidents were directly elected, while the Prime Minister, Dragan Mikerevic, was selected by Parliament heads of the Government. The law provides for an independent judiciary in BiH; however, it remained subject to influence by nationalist elements, political parties, and the executive branch.

The Constitution gives the Government of each entity responsibility for law enforcement. The Stabilization Force (SFOR), led by NATO, continued to implement the military aspects of the Dayton Accords and to provide a secure environment for implementation of the nonmilitary aspects of the settlement, such as civilian reconstruction, the return of refugees and displaced persons, and freedom of movement of the civilian population. The U.N. International Police Task Force (IPTF) mission was succeeded by the smaller European Union Police Mission (EUPM), whose stated objectives are to monitor, mentor, inspect, and raise standards of the local police. In addition to locally recruited police forces, the entities maintained separate armies. While the BiH-level Constitution states that the armies are under BiH-level Presidential authority, in practice, they were controlled by the entities. However, defense reforms adopted by the BiH State and entity parliaments during the year will put entity armies under the operational control of a state-level defense ministry. Entity Governments generally maintained control of security forces. Members of the police and security forces in both entities committed some human rights abuses.

The economy remained in the early stages of transition to a market economy but retained its primarily overdeveloped industrial structure from the Communist era. The estimated population in the country was 3,950,000, compared to an estimated prewar population of 4,377,000. The estimated economic growth rate was 3.5 percent of gross domestic product, down from 3.8 percent in 2002, and unemployment remained, even taking into account the informal economy, approximately 18 percent.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Police continued to abuse and physically mistreat detainees and other citizens. Police brutality continued; however, police accountability for individual abuses improved. Overcrowding and antiquated facilities continued to be a problem in prisons. Infringement of privacy rights occurred and was particularly targeted towards minority returnees. The judiciary in both entities remained subject to influence by dominant political parties and by the executive branch; the administration of justice was sporadic and vulnerable to manipulation. Even when independent decisions were rendered, local authorities often refused to carry them out.

Pressure and harassment of media by authorities and dominant political parties continued; incidents included bureaucratic harassment, intimidation, published insults, and character attacks, as well as threatening behavior and allegations of media racketeering. Academic freedom was constrained by ethnic favoritism and politicization of

faculty appointments. Authorities continued to impose some limits on freedom of assembly and association. Both entity Governments and private groups continued to restrict religious practice by minorities in majority areas; religious discrimination remained a problem. Although there were some restrictions on freedom of movement, it continued to improve. While police sometimes failed to ensure security for refugees returning to areas in which they were an ethnic minority, incremental improvement and responsiveness were noted. Extremist individuals or groups in hard-line areas on several occasions attacked returnees' houses. The RS continued its de facto refusal to take action against any Serbs indicted by the U.N. International Criminal Tribunal for the former Yugoslavia (ICTY); the Federation generally cooperated with the ICTY, although it did not facilitate any new transfers.

Violence against women, in particular domestic violence, was a persistent yet underreported problem. Isolated instances of political, ethnic, or religious violence continued. Severe discrimination against ethnic minorities continued in areas dominated by Serb and Croat ethnic groups, with some discrimination in Bosniak-majority areas, particularly regarding the treatment of refugees and displaced persons. The political leadership at all levels, in varying degrees, but more frequently in the RS than in the Federation, continued to obstruct minority returns in certain localities. Trafficking in women and girls was a serious problem.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The investigation into the 2002 killing of Zeljko Markovic, Police Chief of Serb Sarajevo, continued at year's end.

On January 30, the Sarajevo Cantonal Prosecutor appealed the acquittal of six defendants charged in the 1999 bombing that killed former Federation Deputy Interior Minister Jozo Leutar; however, the Federation Supreme Court had not yet reviewed the appeal by year's end.

Domestic Courts and the ICTY continued to adjudicate cases arising from crimes committed during the 1991-95 conflicts (see Sections 1.e. and 4).

By December, 13 persons were killed in landmine incidents. During the year, the Bosnia and Herzegovina Mine Action Center cleared 235 land mine sites. A total of 1,076 anti-personnel mines, 156 anti-tank mines, and 826 pieces of unexploded ordnance (UXO) were found and destroyed. As of September, approximately 10 percent of the total number of landmines and UXO in the country had been removed.

#### b. Disappearance

There were no reports of politically motivated disappearances during the year.

An estimated 20,000 to 30,000 persons remained missing from the wars in 1991-95. Under the OHR, exhumations were carried out by the Bosniak, Bosnian Croat, and Bosnian Serb commissions for missing persons. The largest gravesite uncovered during the year was found in Crni Vrh and contained approximately 629 sets of remains of victims from the Zvornik area who disappeared in June 1992.

The International Commission for Missing Persons (ICMP) reported that the remains of an estimated 1,536 persons had been recovered in the country by year's end. During the year, ICMP's regional DNA laboratory made 4,618 DNA matches that may lead to the identification of approximately 3,405 persons.

During the year, ICMP made significant progress in implementing the Missing Persons Institute (MPI), a state institution designed to serve as a working platform for entity-level commissions on missing persons under guidance from the ICMP; however, MPI was not fully functional by year's end.

The International Committee of the Red Cross (ICRC) reported that, since 1995, it had received requests from family members to trace 20,931 persons missing from the war years, including 17,369 Muslims, 744 Croats, 2,683 Serbs, and 135 others. A total of 4,076 of these persons had been accounted for (326 of whom were found alive) by year's end. The ICRC reconstituted the Working Group for Tracing Missing Persons, which had been suspended in 1999 due to lack of cooperation from local authorities, and it met twice during the year in Sarajevo. At

its second meeting, in October, the RS Commission member discussed the results of the fate of 27 missing persons.

There were several developments during the year regarding the approximately 8,000 men and boys missing from Srebrenica: The Srebrenica-Potocari Memorial and Cemetery was built and officially opened on September 20, and the first 1,000 victims of the 1995 massacre were buried. The Human Rights Chamber issued a decision on March 7 that held that the RS Government violated the human rights of the families of victims killed in the Srebrenica massacre by failing to inform them of the fate of their loved ones. The Chamber ordered the RS Government to pay damages for this violation in the amount of \$1,229,000 (2 million KM) to the Foundation of the Srebrenica-Potocari Memorial and Cemetery by September 7 and to pay a further \$1,229,000 (2 million KM) over a 4-year period. The Chamber also ordered the RS Government to inform fully families of the fate of their missing and to investigate thoroughly the events giving rise to the massacre and report on the results of the investigation.

RS compliance with the Human Rights Chamber's decisions ordering full investigations into several wartime disappearance cases improved somewhat during the year (see Section 1.e.). For example, the RS complied with the Chamber's decision by paying \$1,229,000 (2 million KM) to the Foundation of the Srebrenica-Potocari Memorial and Cemetery in September. The RS Government also issued a report in September, proposing to establish an independent commission to investigate the crimes leading to the Srebrenica massacre in order to comply with the Chamber's earlier March decision; on December 25, seven members were appointed to the commission.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, in all areas of the country, police abused and physically mistreated persons at the time of arrest and during detention. According to the EUPM, the number of complaints against police officers declined during the year. Investigations and accountability into police misconduct improved during the year (see Section 1.d.).

There were continued reports of violence against minority communities in several areas, particularly in the eastern RS and Herzegovina. Police investigation of these incidents and police protection in general improved; however, the incidents continued (see Sections 2.d. and 5).

There continued to be numerous violent incidents directed at returning refugees (see Sections 2.d. and 5). Violence against journalists, including physical assaults, continued (see Section 2.a.).

Prison standards for hygiene and access to medical care met prisoners' basic needs; however, overcrowding and antiquated facilities remained chronic problems. Conditions were worse in police detention facilities, where overcrowding and inadequate food and hygiene were chronic problems. Corruption among prison officials continued to be a problem. In January, prisoners rioted in a prison in Zenica, destroying part of the roof of the prison and stealing from the kitchen; however, the situation quickly calmed down without any intervention from authorities. The Federation Minister of Justice subsequently went to the prison to hear prisoners' concerns and complaints, and a joint agreement was reached.

There were no separate prisons for female or juvenile inmates, but they were held in separate wings of facilities for adult males. Pretrial detainees were also held separately from convicted criminals.

The Government permitted visits by independent human rights observers; international community representatives were given widespread and generally unhindered access to detention facilities and prisoners in both entities as well.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitutions of both the entities and the country prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

Both the Federation and the RS maintain their own police forces, as does the District of Brcko, and there were three primary levels of law enforcement in BiH: The newly formed state-level BiH Ministry of Security (MoS), which does not maintain a police force but is supported by a new State level investigative agency known as the State Information Protection Agency (SIPA), as well as the State Border Service; the Federation Ministry of Interior (FMUP); and the RS Ministry of Interior (RSMUP). The RSMUP has a centralized structure with five public safety

centers (PSCs) throughout the RS that report directly to the RSMUP. The structure of the FMUP is not centralized; each of the 10 cantons has its own cantonal ministry of interior that functions autonomously from the FMUP. Neither the FMUP nor the RSMUP are required to report to the MoS. Although they share information, these structures function quasi-independently of one another because each structure has jurisdiction over different offenses. For example, the MoS has responsibility for state-level crimes, such as terrorism and trafficking in persons, where the RSMUP and FMUP have responsibility for local-level crimes like homicide.

In 2002, the BiH House of Representatives passed a law creating SIPA, whose mandate is to serve as a conduit for information and evidence among local, as well as some international law enforcement authorities, and in limited circumstances to act as a protection authority for diplomats and officials. At year's end, SIPA still lacked a budget and permanent facilities to carry out its mandate, although some staff had been hired.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements; however, the number of minority police officers in each entity police force increased somewhat. Out of 8,353 police officers in the RS, 7,853 were Serbs, 426 Bosniaks, 64 Croats, and 20 of other nationalities, and out of 7,808 police officers in FBiH, 5,020 were Bosniaks, 1,935 Croats, 636 Serbs, and 217 of other nationalities. In general, while new officers were accepted into the police academies under strictly observed ethnic quotas, it was estimated that it will take years of concentrated effort to establish effective, professional multi-ethnic police forces throughout the country.

EUPM replaced the IPTF, whose mandate ended in 2002. The EUPM acted in an advisory capacity to BiH entity police forces, with a much more limited mandate than the IPTF had. This was the first year that BiH police forces were fully accredited under the U.N. accreditation program originally created by the IPTF. Professional Standards Units (PSUs), which function as internal affairs investigative units, were fully operational in each of the entity MUP and the District of Brcko. The presence of these units led to the processing of complaints of police misconduct and discipline of police in accordance with a standard procedure. From January through June, the RS PSU investigated 548 cases--373 citizen complaints, 171 supervisor complaints, and 4 cases treated as others. Of these cases, 488 investigations were completed, and 182 cases were determined to be well-founded and were forwarded to disciplinary prosecutors for further action. The Federation PSU investigated 12 alleged human rights abuses during the year. Four of these 12 were substantiated and categorized as cases involving excessive force incident to arrest; punishment in these cases ranged from reduction in rank and/or salary to redeployment to termination of employment.

There were continued reports of corruption at the highest levels. Investigations conducted by the PSU and the international community, including the EUPM and SFOR, resulted in several ministers, deputy ministers, and police chiefs being asked to resign, being fired or being prosecuted. At year's end, there were seven indictments pending against a member of the BiH Presidency.

The new Criminal Procedure Code (CPC), enacted in March, specifically delineates the manner in which warrants are to be issued. Judges, prosecutors, and police were in the process of receiving training on these new procedures. The police did not often take action without a warrant; however, problems arose when individuals could not be apprehended because a warrant had not been executed.

Under the newly enacted CPC, if reasonable grounds exist to believe an individual has committed a crime, police must take the individual before a prosecutor within 24 hours after detention. The prosecutor has an additional 24 hours to make a decision whether the individual should be released or undergo a pretrial custody hearing before a preliminary proceeding judge. If the judge determines that certain criteria have been met, the judge may order the individual to be held in pretrial custody. If the individual does not agree with the preliminary proceeding judge's determination, he or she may appeal the decision to a panel of judges, who must decide on the appeal within 48 hours. Police are also authorized to detain individuals for up to 6 hours at the scene of a crime for investigative purposes. The new CPC contains provisions that allow individuals who have been unlawfully detained to seek compensation. Entity criminal procedure codes have been harmonized with the BiH State level CPC. Detainees are allowed to request a lawyer of their own choosing (if they are indigent a lawyer will be provided for them) and to inform family members of their detention. There is a functioning bail system that was widely used.

Arbitrary arrest and detention declined after the introduction of accounting procedures to track the arrest and detention process. Police must now maintain written records documenting each step of the process.

An individual in pretrial detention has the right to be informed of all charges against him or her once an indictment has been handed down. Prior to the issuance of an indictment, the individual may have access to all favorable information unless it is shown that this would create an unnecessary risk to the investigation. Under the new CPC,

a trial must be undertaken in a speedy manner and normally occurs within 3 months of the indictment being issued.

Prior to the enactment of the new CPC, there were problems with prolonged pretrial detention; however, the length of pretrial detention now is specifically defined. Pretrial detention can last no more than 1 month following the date an individual is taken into custody. When this 1-month period has expired, custody may be extended for an additional 2 months by decision of a judicial panel. If there is an ongoing investigation for a criminal offense that carries a prison sentence of 10 or more years, custody may be extended an additional 3 months following a substantiated motion of the prosecutor. Pretrial detention may not last longer than 6 months. The new CPC does not permit house arrest. There were no political detainees in BiH.

In two separate decisions, one on April 4 and one in October 2002, the BiH Human Rights Chamber determined that the BiH and Federation Governments violated human rights conventions in transferring six Algerian terrorism suspects to the custody of a foreign government in January 2002. The Chamber ordered both the BiH and the Federation Governments to pay monetary compensation to each applicant and to engage attorneys on behalf of each applicant; however, no compensation had been paid by year's end.

On January 30, SFOR handed over Sabahudin Fijuljanin to Federation authorities. SFOR had detained Fijuljanin from October 2002 to January 30 on suspicion of having conducted surveillance of SFOR's Eagle Base in Tuzla. In December 2002, Fijuljanin filed a claim with the Human Rights Chamber asking the Chamber to order the BiH and the Federation Governments to prevent his removal from the country. Per the Chamber's January 11 order, the BiH and Federation authorities formally requested that SFOR place Fijuljanin under the jurisdiction of Federation authorities. SFOR released Fijuljanin on January 30 after completing its investigation into his activities. The Chamber reasoned that the main issue raised in Fijuljanin's application, which was the prevention of Fijuljanin's removal from BiH, had been resolved and thus dismissed the case on March 4.

The Constitution prohibits forced exile, and the Government did not employ it.

#### e. Denial of Fair Public Trial

Both the Federation and RS Constitutions provide for an independent judiciary; however, the executive and political parties exercised some influence over the judicial system. The legal system was unable to adequately protect the rights of either victims or criminal defendants because of its inefficient criminal procedure codes and ineffective trial procedures; however, in March, a new CPC was enacted which is expected to improve the judiciary's ability to protect the rights of victims and defendants. The judiciary remained subject to influence by political parties. Judges and prosecutors who showed independence were subject to intimidation, and local authorities at times refused to carry out their decisions. Both the Federation and RS Constitutions provide for open and public trials and give the accused the right to legal counsel.

The High Judicial Prosecutorial Councils (HJPC) and the Office of the Disciplinary Prosecutor have limited the influence of political parties on the judiciary. The HJPCs have the sole authority to appoint and discipline judges and prosecutors to all courts. This process of vetting candidates before nomination limited the influence of political parties and others on the judiciary. The new system has a mechanism to vet candidates with questionable records and attempts to ensure that judges and prosecutors who show independence were not subject to intimidation and that local authorities carry out their decisions. The Office of Disciplinary Counsel was established to manage complaints against judges and prosecutors and recommend punishment or removal as necessary.

In 2002, the OHR appointed the first members of three newly created BiH-level HJPCs. During the year, the Independent Judicial Commission (IJC) verified all 1,610 applications for appointments in all courts and prosecutor's offices at the Cantonal, District, Municipal and Basic levels, and the HPJC appointed 258 judges and prosecutors. The appointments were completed for the state and the entity levels; however, there were still more appointments that needed to be completed at the Cantonal and Municipal levels.

Some politicians and other powerful figures continued to exert influence on cases before the courts; however, during the year, judicial reform efforts began to minimize undue influence by organized crime and political leaders on the judiciary. Through implementation of the new CPC, law enforcement and judicial officials were given tools to investigate and prosecute serious crime or corruption cases. A court restructuring and administration project addressed a previous lack of resources through streamlining courts and prosecutor's offices; however, a large backlog of unresolved cases remained a problem.

Enforcement of civil judgments remained weak due to the lack of cooperation between courts and police generally; the low priority given to enforcement cases by the courts; and the many legal loopholes that allowed debtors to

delay or avoid enforcement. However, there was improved cooperation from local officials and police in implementing court decisions. This was evidenced by the number of cases implemented on behalf of those who won decisions mandating the eviction of illegal occupants from their property, albeit under pressure from the international community, including the European Union (EU), the Organization for Security and Cooperation in Europe (OSCE), and the U.N. High Commissioner for Refugees (UNHCR).

The Law on Legal Assistance and Official Cooperation in Criminal Matters, imposed in 2002, was fully implemented, and regulating legislation was enacted by year's end; there was some cooperation between the separate structures of courts and prosecution agencies in the Federation and the RS. The IJC recommended an aggressive approach to the appointment of judges and prosecutors that was adopted by the Peace Implementation Council in 2002. With limited exceptions, after restructuring, which is scheduled to be completed by April 2004, all judicial and prosecutorial posts should be filled in an open competition.

The State-level Court, which opened on January 24, is the highest court in BiH. The court and prosecutor's office are responsible for investigating and prosecuting crimes enumerated under the new BiH Criminal Code in accordance with the new BiH CPC. Both entities have separate Supreme Courts and Prosecutor's offices, as well as cantonal courts in the Federation, district courts in the RS, and the municipal courts, which are the lowest courts in both entities.

Trials are public and the defendant has the right to present his own defense or to defend himself with the professional aid of a defense attorney of his choice. If the suspect or accused does not have a defense attorney, the BiH CPC stipulates that an attorney shall be provided if the accused is charged with a crime for which long-term imprisonment is prescribed. The new BiH CPC and Criminal Code provide the defendant with the right to confront or question the witnesses and to present witnesses and evidence on his or her behalf. All defendants have the right to appeal.

The mandate for the Human Rights Chamber and the BiH Human Rights Ombudsman ended this year. Their responsibilities were transferred to local institutions (see Section 4).

Implementation of Human Rights Chamber decisions by local authorities improved somewhat in the RS. The RS partially complied with one high profile case, the Chamber's March Srebrenica decision, by paying \$1,129,000 (2 million KM) to the Foundation for the Srebrenica-Potocari Memorial and Cemetery (see Section 1.b.). The RS also achieved full compliance with some decisions by reinstating claimants in their houses and apartments and paying them compensation. The Federation continued to implement most Chamber decisions, taking the remedial action ordered and paying compensation awards. Both the Federation and the RS failed to comply with a number of Chamber decisions.

In general, the BiH judicial system remained unprepared to prosecute war crimes cases domestically; however, in June, the Peace Implementation Council issued a decision to create a War Crimes Chamber within the newly formed BiH State Court. On October 30, international donors agreed to provide start-up funding for this project, and the BiH Government agreed to provide political support and potential funding from the 2004 fiscal budget.

The local prosecution of war crimes cases proceeded slowly due to political interference; however, authorities made some progress during the year with the arrest and trial of suspects in the domestic courts. The lack of a witness protection program hampered prosecutions.

On January 29, the Banja Luka District Court Prosecutor issued an indictment against 11 Prijedor police officers who had detained members of the Matanovic family. In 2001, police discovered the bodies of Father Matanovic and his parents, who disappeared from Prijedor in 1995, in the well of their family residence in Rizvanovici. The ICTY approved the transfer of this case to the domestic judicial system. The indictment against the Prijedor officers entered into force on March 19, and the first hearing was scheduled to take place on June 30. However, the defense filed objections to the Banja Luka District Court's jurisdiction and requested a transfer of the case to the ICTY, and the Banja Luka District Court sent the case to the RS Supreme Court, which overruled these objections. The hearing was rescheduled for September 22, when defendants again raised objections against the presiding judge, the Public Prosecutor, and the President of the District Court. The case again was sent to the RS Supreme Court for consideration of these objections, where it remained at year's end.

There were no reports of political prisoners.

The mandate of the Commission for Real Property Claims (CRPC), an institution created by Annex VII to process claims for property wrongfully taken during the 1992-95 war, ended during the year. As part of its transfer process,

the CRPC was to transfer all of its claim files (approximately 240,000) and records to the BiH National Archives, and to transfer its computer database to the BiH Ministry of Human Rights and Refugees (MoHRR). CRPC was unable to resolve approximately 50,000 private property claims because they involved conflicting documentary evidence and required a hearing, which was beyond CRPC's mandate. A public information campaign was designed to inform claimants of their responsibility for pursuing these claims. In addition, 5,000 occupancy rights housing claims were transferred to municipal housing bodies for resolution because these claims faced statute of limitation issues. At year's end, several memoranda of understanding remained unsigned and laws needed to be enacted to accomplish the handover. Local authorities were slow to take the necessary actions to ensure a smooth transfer.

By year's end, the BiH Government had almost met its goal of completing implementation of property law by the end of the year, with all property that was wrongfully taken during the recent war returned to its rightful owners. By November, the overall property law implementation rate for BiH was 92 percent, and 72 municipalities had completed their caseload of claims. Both the Federation and the RS adjudicated 93 percent of property claims and returned 92 percent of the property. The municipalities that still remain critical for implementing return of property are the most populous, such as Banja Luka, Sarajevo, and Zvornik. The municipality with the worst property law implementation plan (PLIP) ratio was Donji Vakuf, with only 71.84 percent of claimed property returned.

During the year, the Human Rights Chamber issued only two decisions involving cases where local authorities failed to return apartments or homes to legal owners seeking to return to their prewar homes.

During 1998, the Federation army unlawfully took control of 4,000 former Yugoslav military (JNA) apartments that had been abandoned. Authorities encouraged postwar occupants of these apartments to begin purchasing them. In the meantime, the prewar owners of the apartments (former JNA officers) began filing claims to return to their property. After inadequate action by local authorities, several of these cases were brought before the Human Rights Chamber, which decided that apartments owned by JNA officers should be returned. The return of JNA apartments was scheduled to begin, based on a decision by the Human Rights Chamber, in 2002; however, the Federation did not enact the necessary legislation until July of this year. In the meantime, the Chamber issued an additional decision on March 31, addressing the rights of occupancy holders. While the new legislation attempts to address both the Chamber's decisions, the legislation was not fully implemented by year's end.

Roma displaced from their property during the war had difficulty repossessing their property because of discrimination and lack of adequate information on the necessary procedures (see Section 5).

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to "private and family life, home and correspondence" and the right to protection of property; however, authorities in some areas infringed on citizens' privacy rights.

In the RS, police routinely conducted searches of private homes without obtaining search warrants, citing emergency provisions in the law even in routine cases. While this problem was not as common in the Federation, it occasionally occurred.

There were a number of forced evictions during the year; however, according to the PLIP agencies, the number of forcible evictions that required police involvement decreased compared to previous years.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides a general statement supporting freedom of speech and of the press; however, the Government did not always respect these rights in practice. Laws regarding freedom of the press are delegated to the cantons in the Federation, and to the central authorities in the RS.

The primary restraints on freedom of the press were: Inappropriate pressure, including legislation requiring a public broadcaster to broadcast all parliamentary sessions; the dismissal of a public broadcaster's Board of Governors; censure of a public broadcaster and its employees from the floor of Parliament; influence on the principal media by governing political parties and institutions; and intimidation and libelous attacks on journalists. While there were some improvements in the development of a free and independent press, many media outlets maintained subjective political biases. Threats to journalists remained high, although the severity of harassment incidents declined. Government officials in both entities continued to pressure media outlets to change editorial policies

through bureaucratic harassment.

The Media Helpline, established to monitor and report abuses against journalists and freedom of speech, was ineffective; calls appeared only to reach a recorded response, in English, instructing the caller to call later, with no ability to leave a message.

Independent media analysts usually considered press outlets expressing strong support for a specific political option as doing so by choice or for economic reasons. Nevertheless, government officials, particularly in the RS, sometimes continued to exert economic pressure by directing the advertising business of government-owned companies away from independent media outlets critical of the Government.

A number of independent newspapers operated in the Bosniak-majority areas of the Federation and in the RS, principally in Banja Luka. Dnevni Avaz, owner of the highest capacity private printing house in Sarajevo, remained the largest circulation daily in the country with strong ties to elements of SDA and other Bosnian Muslim interests. Dani and Slobodna Bosna, the most influential independent magazines in the federation, found alternative printing services to Dnevni Avaz Publishing. In the RS, the government-owned printing company, Glas Srpski, had a near monopoly; however, Nezavisne Novine, an independent newspaper distributed throughout the country, had limited but growing circulation.

The largest television broadcasters were FTV in the Federation and Radio Television of Republika Srpska (RTRS) in the RS, the two entity Public Broadcasting System (PBS) stations. In addition to a local commercial network of five stations in both entities (Mreza Plus), there were dozens of small independent television stations located throughout the country. Radio broadcasting in the Bosniak-majority areas of the Federation--particularly in Sarajevo, Zenica, and Tuzla--was diverse. Opposition viewpoints were reflected in the news programs of independent broadcasters. Independent or opposition radio stations broadcast in the RS, particularly in Banja Luka. One of these, Nes Radio, reported a wide variety of political opinions. Although there were notable exceptions, local radio stations broadcast in Croat-majority areas were usually nationalistic, and local Croat authorities did not tolerate opposition viewpoints.

Some members of the BiH print media continued to indulge in vicious personal attacks and character assassination throughout the year, continuing a pattern begun well before the 2002 elections. The BiH Press Council, working largely through the country's associations of journalists, continued to advocate adherence to a press code through self-regulating procedures; however, the Press Council encountered considerable resistance or indifference in its efforts to establish an effective self-regulatory body.

In 2002, the PBS Law established the PBS with both entity-level broadcasters as components and codified the regulatory responsibilities of the state-level Communications Regulatory Agency (CRA), and in March, the RS adopted the PBS Law; however, additional legislation was needed to support the CRA in its purpose as a strong and independent regulatory body.

The CRA's international leadership was replaced by a local Director, and the CRA began establishing itself as a fully functioning BiH-level regulatory agency. In general, the presence of the CRA, and the effective functioning of its complaints procedure and enforcement provisions, considerably reduced the level of inflammatory and hate language in the electronic media. Electronic media operated in a more transparent and properly regulated broadcast environment than it had previously.

Despite these improvements, CRA's independence continued to be hampered by government interference in its budget process that occurred under the previous BiH government. These budget alterations were not corrected by the Government and prevented CRA from meeting certain broadcast monitoring responsibilities.

In January, Radio Television of the Federation of Bosnia and Herzegovina (FTV) received threats to news journalists from various political groups and economic interests that required protection from Federation police on two occasions; this was the first time since the end of the war that the public broadcaster required special police protection. Many threats were related to 60 Minutes, a political (and, at times, partisan) news commentary program that openly and aggressively criticized current events and government officials. A nongovernmental organization (NGO) linked to nationalist Bosniak political elements specifically demanded that FTV management replace the "60 Minutes" producer/editor.

In October, the Federation Parliament passed an amendment to the PBS law requiring FTV to broadcast all sessions of the Federation Parliament in their entirety. In the RS, the legislative assembly voted to demand the resignations of the RS entity public broadcaster's Board of Governors, General Director and news directors. Both



actions were heavily criticized as illegal attempts by the Government to influence the policies and content of public broadcasters.

In April, the same NGO filed a complaint with the Federation public prosecutor demanding that the influential news weekly Slobodna Bosna be sanctioned for "warmongering" reporting and threatened to organize demonstrations in front of the Slobodna Bosna editorial offices.

Also in April, FTV appealed to the Federation Ombudsman when an SDA representative attacked the station and its journalists during a session of the Federation House of Representatives. The SDA representative accused the station's editorial board of financial misconduct, attacked FTV's editorial policy, and read a letter into the record calling for investigations by the Federation Parliamentary Commission and the Financial Police, labeling FTV a "media monster," and claiming that "Bosnian language is not used on either channel." Off the floor, another representative threatened an FTV journalist covering the session. The Ombudsman's special report concluded that the incident was a misuse of the representative's mandate, a misuse of the parliamentary platform, a serious violation of journalistic freedom, and an attempt to impose political pressure on a public service broadcaster.

In April, the owner of Dnevni Avaz requested that the Sarajevo Deputy Municipal Prosecutor file criminal charges against a smaller Sarajevo daily, Oslobodenje, for "complicity in a criminal offence of false accusation" because Oslobodenje had published a statement by a businessman frequently attacked in Dnevni Avaz. According to Oslobodenje's press release on the subject, the Avaz accusations also demanded an investigation into where and on whose order the interview took place. Within 9 days of Avaz's accusation, the Deputy Prosecutor directed local police to question the editor-in-chief and the director of Oslobodenje in an "informative interview."

The Federation Ombudsman found that government institutions overstepped their authority in this case and initiated proceedings against Oslobodenje based on "unreasonable criminal charges," representing a serious violation of established standards. The Ombudsman further noted that there was no basis for this action since libel had been decriminalized 3 years earlier.

In May, Radio Sana of Sanski Most complained to the Federation Ombudsman of political pressure from the local branch of the Party for Bosnia and Herzegovina on members of Radio Sana's steering board. Radio Sana also complained that the local branch of the party had published numerous political announcements attacking the station since mid-2002. The harassment culminated in June with a party demand that Sanski Most's mayor replace the director of Sana Radio. The Ombudsman concurred that this case constituted inappropriate political pressure.

In August, the Banja Luka daily Nezavisne Novine followed a story on irregularities in management of the RS telecommunications utility that associated the former RS Prime Minister in illegal sales transactions. The story provoked strong public reaction from the former Prime Minister's party, which threatened the daily with a lawsuit; however, Nezavisne was not notified of any suit by year's end.

Also in August, the spokesperson of the RS Prime Minister verbally attacked an RTRS journalist, shouting at him during a press conference. The RS Association of Journalists issued a statement strongly condemning this behavior, and, within a few days, the RS Bureau of Information apologized for the incident.

In September, Dnevni Avaz reported on an ongoing story against certain politicians it claimed were organizing a state coup and quoted an "unnamed source" to list several individual editors and journalists by name as actively participating in the coup preparations. A few days later Avaz listed the names again as a "reprint" of a partner periodical. Among those accused were Bakir Hagiomerovic of FTV, Senad Avdic of Slobodna Bosna, Senka Kurtovic of Oslobodenje, and Vildana Selimbegovic and Senad Pecanin of Dani. Pecanin and Selimbegovic also received death threats by phone while covering the story of an explosive planted at the house of a Sarajevo businessman. Dani reported the incident to the police but was unaware of any investigation.

The court case opened in 2002 against an individual who threatened Vildana Selimbegovic of the print weekly Dani had not been resolved at year's end.

When the perpetrator apologized for forcing his way into the editorial offices of Dnevni List in Mostar and threatening violent behavior, Dnevni List did not pursue further charges.

In 2002, the OHR decriminalized defamation and slander, making them civil torts instead of criminal offenses. Prior to OHR's decriminalization, Federation journalists ran the risk of conviction for a criminal offense of libel.

Despite civil penalties for libel, print dailies and weeklies routinely published unsubstantiated rumors and personal attacks on political figures according to their political party affiliations. For example, on August 13, attacks of one daily newspaper against a private individual and criticism of that daily by an opposing weekly news magazine were so vehement that they resulted in a court action. The interim court ruling prohibited the daily from publishing anything further on the individual, and the weekly from publishing anything further about the daily, until the court could determine whether any crime had been committed.

During the year, 162 charges of libel were brought against journalists in the Sarajevo Cantonal Court with many plaintiffs demanding compensation of up to \$64,350 (100,000 KM). At year's end, none of these claims appeared to have been resolved.

The Guidelines for the implementation of the Freedom of Information Act, which establishes a general right of public access to government information, were adopted at the state and entity levels.

The Government did not restrict access to the Internet; however, for economic reasons, only approximately 4 percent of the population had Internet access.

The Government did not restrict academic freedom; however, academic freedom was constrained by ethnic favoritism and politicization of faculty appointments. In Sarajevo, Serbs and Croats complained that members of the Bosniak SDA party and Bosniaks generally received special treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into eastern and western branches, reflecting the continued ethnic divide in the city.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice.

The Constitution provides for freedom of association; however, authorities imposed some limits on this right, and indirect pressure constrained the activities of some groups. A wide range of social, cultural, and political organizations functioned without interference.

Although political party membership was not forced, many viewed membership in the leading party of any given area as the surest way for residents to obtain, regain, or keep housing and jobs in the government-owned sector of the economy.

The Law on Associations and Foundations allowed NGOs to register at the national level and therefore to operate throughout the country without administrative requirements.

#### c. Freedom of Religion

The BiH Constitution and both entity Constitutions provide for freedom of religion; however, adherents of minority religions in non-ethnically mixed areas had their right to worship restricted, sometimes violently. The Bosnian Constitutional Court struck down a provision in the RS Constitution in 2000 directing the entity government to "materially support the Serbian Orthodox Church and cooperate with it in all fields." The RS gave only nominal assistance to representatives of the Serbian Orthodox, Roman Catholic, and Islamic faiths.

The RS Government, local governments, and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place, although there was improvement from previous years. Notably, the Pope visited Banja Luka on June 20 with no security incidents, and three Islamic burial ceremonies took place at the Srebrenica-Potocari Memorial and Cemetery in March, July, and September, also without incident. However, on a daily basis, the absence of a police force willing to protect religious minorities and a judicial system willing to prosecute crimes against them were major obstacles to safeguarding the rights of religious minorities.

The case of 11 former police officers detained for their suspected involvement in the 1995 killing of Catholic priest Tomislav Matanovic and his parents remained ongoing at year's end. In September, the District Court judge scheduled to try the Matanovic case resigned; by year's end, it was unclear if and when the trial would begin.

Ethnic symbols, clerics, and religious buildings were often targets of ethnically motivated religious violence. Local police did not conduct a serious investigation into several incidents.

In previous years, RS authorities frequently did not intervene to prevent the violent obstruction of efforts to rebuild some of the 618 mosques and 129 churches in the RS that were destroyed or significantly damaged during the 1992-1995 war. However, there were some improvements during the year, such as the rebuilding of mosques in the cities of Mostar and Stolac. Administrative and financial obstacles to rebuilding religious structures continued to impede the ability of minorities to worship and constrain their return in many areas.

Despite the constitutional provisions for religious freedom, discrimination against minorities occurred in virtually all parts of the country. Discrimination was significantly worse in the RS, particularly in the eastern RS, and in Croat-dominated areas of the Federation; however, incidents of discrimination occurred in Bosniak-majority areas as well.

Parties dominated by a single ethnic group remained powerful in the country and tended to identify themselves closely with the religion associated with their predominant ethnic group; however, some political parties were multi-ethnic. Some clerics characterized hard-line nationalist political sympathies as part of "true" religious practice.

The Constitution provides for proportional representation for each of the three major ethnic groups in the BiH Government and military. Because of the close identification of ethnicity with religious background, this principle of ethnic parity in effect resulted in the reservation of certain positions in the BiH Government and military for adherents or sympathizers of certain faiths. The military in the RS was staffed overwhelmingly by ethnic Serbs and only had Serbian Orthodox chaplains. The Federation military was composed of both separate Bosniak (Muslim) and Croat (Roman Catholic) units, and integrated units; Muslim and Catholic chaplains were represented.

Foreign religious workers normally entered the country as visitors and obtained 3-month tourist visas; some apparently entered and reentered the country every 3 months, essentially extending their tourist status indefinitely. Missionaries officially were required to obtain a temporary residence permit from a Cantonal MUP before their 3-month tourist visa expired; however, there were no reports of cases in which missionaries' applications were refused.

Public schools offered religious education classes, which were mandatory for Serbs in the RS and, in theory, optional in other parts of the country; however, in practice they were offered only for students of the majority religion in that area, amid pressure on parents to consent that their children needed to attend the religious instruction. In some cases, children who chose not to attend the religion classes were subject to pressure and discrimination from peers and teachers. Schools in Sarajevo offered only Islamic religion classes. In Croat-majority West Mostar, minority students theoretically had the right to study non-Catholic religions; however, this option did not exist in practice. Orthodox symbols were present in public schools throughout the RS.

On November 28, the BiH Parliament adopted the Law on Freedom of Religion and on Legal Status of Churches and Religious Communities, which was submitted by leaders of the Muslim, Roman Catholic, Serbian Orthodox, and Jewish communities; however, the text of the law had not been published by year's end. The law defines the legal status of religious organizations, including property rights. The law should grant a right to property restitution "in accordance with the law"; however, no such restitution law has yet been established.

In some communities, local religious figures contributed to intolerance and an increase in nationalist feeling through public statements and, on occasion, in sermons.

In August, gravestones were overturned in Orthodox and Catholic cemeteries in Sarajevo. The perpetrators were apprehended and were awaiting trial at year's end. In September, a stone was thrown through the window of the Catholic school in Sarajevo, and, in Sanski Most, Orthodox graves were desecrated. During August and September, there were tensions between the Serb and Bosniak communities in Bocinja and allegations that Bosniaks had applied pressure towards Serb returnees to convert to Islam.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27829pf.htm).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, while freedom of movement, including across the Inter-Entity Boundary Line, continued to improve, some limits remained in practice.

Accurate statistics on displaced persons and refugee returns remained difficult to obtain; various refugee organizations provided different estimates on the numbers of minority internally displaced persons (IDP) returns. In contrast to last year, as of August, the number of minority returns had significantly dropped. UNHCR registered only 34,093 minority returns through August, when 69,549 returns had been registered during the same period in 2002. One reason for the drop in returns may have been the decrease in reconstruction assistance. Other reasons may have included land mine incidents and intermittent threats and violence against returnees, including the killing of a Bosniak returnee in Mostar by a booby-trapped hand-grenade.

According to UNHCR, between the end of the war in 1995 and the end of August, 532,068 persons who left the country had returned. Of these, 423,431 were returnees to areas where they represent an ethnic minority.

The 2002 "Vital Interest" Decision of the OHR provided the framework for a clearer accounting of Refugee Ministry budgets used to support returns. The Federation Ministry for Refugees planned to use its budget to support the return of 1,500 families as well as to pay the debts of the former administration. Implementation of the projects to support return of families began in October, but immediately triggered intense criticism from Croat Associations, who claimed that the selection of beneficiaries was discriminatory. Out of 500 reconstruction packages for a particular type of assistance, more than 90 percent was designated to support Bosniak returns. In the RS, the Refugee Ministry's budget provided support to Bosniaks and Croats returning to the RS and to Bosnian Serbs returning to the Federation; the RS Ministry for Refugees was the only Ministry that actually delivered reconstruction assistance to returnees. Both entity ministries committed part of their budgets to be implemented through joint projects using the BiH State-level Commission for Refugees (SCR).

Serbs continued to return in greater numbers to the Federation. Croat returns to the RS increased during the second half of the year. More than 1,000 Bosniaks returned to Srebrenica, site of the July 1995 massacre of approximately 8,000 Bosniak men and boys. The first 100 Bosniaks began the return process to Visegrad, and Bosnian Serbs in Visegrad began to return to the Federation, particularly to Sarajevo and Konjic.

In January, the Peace Implementation Council unanimously adopted a joint plan drafted by OHR's Reconstruction and Return Task Force (RRTF) with the BiH MoHRR for the hand over of RRTF's responsibilities to the BiH Government. RRTF has been the main coordinating body of the international community for implementing Annex VII of the Dayton Accords (the Agreement on Refugees and Displaced Persons) since 1998. The elements of this Annex VII Exit Strategy Plan included: (1) amending the BiH State level law on refugees to clearly define new responsibilities taken over by the BiH Ministry for Human Rights and Refugees; (2) transferring CRPC's database on property claims to the BiH MoHRR; (3) making operational a Return Fund that would centralize and allow coordination of funding between international donors and the BiH and entity government levels; and (4) replacing RRTF field offices and entity field offices with BiH State regional refugee centers. There were numerous delays in the Annex VII Exit strategy, which were caused in part by the complex bureaucratic procedures and structures of BiH. The SCR's ability to make decisions on reconstruction and return priorities was hindered by nationalist parties, who were unable to reach agreement on many issues.

Many problems remained that prevented returns. The needs for housing continued to outweigh available resources. Municipal administration taxes on documents that are necessary for return, such as birth or land certificates, remained high. In addition, minority returnees often faced societal violence, employment discrimination, lack of access to health care in the place of return, and denial of utility services such as electricity, gas, and telephones by publicly owned utility companies. All of these problems decreased from previous years, yet continued to persist in hard-line areas.

Corruption of local government entities charged with supporting the return process also remained a problem. In March, the OHR announced the results of the 2002 special audit of the Federation Ministry for Refugees and Social Welfare that found approximately \$8,789,000 (14.3 million KM) was lost through overspending, manipulated tender processes, mismanagement, paying staff multiple salaries, and poor project controls. The following week, the High Representative announced his decision to remove the former Federation Refugee Minister, Mijat Tuka, from his position as envoy in the Federation Parliament because of his involvement in these fraudulent schemes; however, no criminal charges were filed against Tuka.

The continued influence of ethnic separatists in positions of authority hindered minority returns. Government leaders in both the RS and the Federation often used a variety of tactics, including public statements, to inhibit the return of IDPs. Many families chose to remain in places of displacement and obtained land plots to build homes in these places. For example, in Zvornik, RS, 2,777 land plots were allocated to Bosnian Serbs who intend to remain in their place of displacement. In the Federation, Capljina has 900 illegal land plot allocations, and Stolac has 1,200 allocations housing large Bosnian Croat settlements. In these municipalities alone, approximately 15,000 people were building permanent homes instead of returning to their prewar homes. An OHR decision banning the

allocation of land plots by municipalities was lifted in two new decisions issued on May 16 that allows both the RS and the Federation to dispose of socially owned property.

Much of Croat-controlled Herzegovina and towns in eastern RS remained resistant to minority returns, although efforts by hard-line Croats to resettle returning refugees in a manner that consolidated the results of ethnic cleansings ceased for the most part. IDPs living in those areas, even those who privately indicated interest in returning to their prewar homes, frequently had been pressured to remain displaced, while those who wished to return had been discouraged, often through the use of violence (see Section 1.c.). These trends of intimidation for displaced persons to stay in their place of displacement decreased, although they were still practiced in the staunchest hard-line areas of the RS and Herzegovina.

The continued depressed state of the economy throughout the country and the consequent lack of employment opportunities for returnees remained a serious obstacle to a significant number of returns. Attempts by returnees to receive compensation for jobs illegally lost during the conflict years were largely unsuccessful. As a result, most minority returnees were elderly, which placed a burden on receiving municipalities. Younger minority group members, who depended on adequate wages to support their families, generally remained displaced, particularly in cases in which they had managed to find work in their new place of residence.

On July 18, the Law on Movement and Stay of Foreigners was enacted and took effect on October 14. This law provides for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol and supercedes the 1999 Law on Immigration and Asylum. The 1999 Law gave most of the responsibility to entities and was never implemented; thus in practice, UNHCR determined asylum status. The new law provides greater status to the State of BiH and centralizes immigration and asylum functions in the BiH MoS; however, the MoS must enact by-laws by April 14, 2004 to ensure implementation of this law. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

The Government generally cooperated with UNHCR and other humanitarian organizations in assisting refugees. As a result of the conflict in the former Federal Republic of Yugoslavia (FRY) in 1999, approximately 6,000 citizens fled FRY and came to Bosnia and Herzegovina; half came from Kosovo, while the other half came from other parts of the country. In March, the Council of Ministers decided that the temporary admission status of refugees from Kosovo should expire in June 2004, and the status of all other refugees expired on June 31. The BiH MoHR issued implementing instructions for this decision in April. According to the latest UNHCR statistics, as of December, 680 Kosovo refugees remained in 4 collective centers in BiH.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully; however, the use of coercive tactics by some nationalist parties precluded full citizen participation without intimidation. In October 2002, the country held general elections, which were the first since the Dayton Peace Agreement to be administered and conducted by BiH authorities. The OSCE judged them to be largely in line with international standards. Problems cited by observers included numerous voters unable to find their names on voter registers, group voting, and intimidation in a few cases. Voter apathy and low turnout were also problems.

In April, the Serb member of the state-level Presidency, Mirko Sarovic, resigned under pressure from the international community after it was determined that he bore political responsibility for arms trading to Iraq, in violation of U.N. sanctions, and for illegal spying by RS intelligence services on SFOR and members of the international community. In accordance with election rules, Borislav Paravac, former Deputy Speaker of the BiH Parliamentary House of Representatives, replaced Sarovic. Paravac is also a Serb and member of the SDS.

In the Federation, the President appoints the Prime Minister subject to approval from the bicameral parliament. Serious ethnic and political rivalries continued to divide Croats and Bosniaks. In the RS, the President and Vice Presidents are directly elected, while a Prime Minister selected by Parliament heads of the Government. The Parliament, called the RS National Assembly, is elected on a proportional basis, and the Council of Peoples has the power to review laws vital to national interest issues of any of the constituent peoples. The Constitution allows Bosniak, Croat, or Serb representatives in the RS Council of Peoples to block legislation they believe threatens their group's vital national interest. In the city of Brcko, which is a "self-governing neutral district," an internationally appointed supervisor with executive authority is empowered to address such issues as taxation, law enforcement, district management, and composition of the district assembly.

The SDA and HDZ remained powerful, particularly in Bosniak and Croat majority areas. The SDS remained ideologically committed to Serb cultural and religious authority in the territory of the RS, where it won a significant

plurality in the 2002 elections.

A multi-ethnic local government administered the Brcko municipality as a district under the direct oversight of the Brcko supervisor. In the absence of new or adapted laws, the supervisor retained discretion regarding which laws, the Federation or the RS, were to apply in Brcko. Brcko District has harmonized 134 new laws reforming the system of local governance, property, taxation, citizen participation, economic development, and judicial reform. Brcko's school system was the first in the country to be fully integrated, and the police force was the first to achieve U.N. certification.

The Election Law requires that at least 30 percent of political party candidates be women. These provisions increased the number of female representatives from 2 percent at the BiH and entity level and 5 percent on the municipal level in 1996 to approximately 20 percent of all elected positions during 2002. In the BiH-level House of Representatives (lower house), 6 of 42 deputies were female. Of 15 delegates to the BiH-level House of Peoples (upper House), all of which were appointed by entity legislatures, none were female. In the Federation legislature, there were 23 women in the 98-seat House of Representatives. In the RS, there were 15 women in the 83-seat National Assembly.

Under the Dayton Agreement, only constituent persons--Serbs, Croats, and Bosniaks--are eligible to be selected for government positions. Therefore, there is no rule on participation of minority representatives in the BiH Government at any level. There was only one minority in a high government position, Jacob Finci, a Jewish man who is the Director of the Civil Service Agency.

Six months before the 2002 elections, the Constitutions of the country's two entities were amended to ensure equal status for the country's three main ethnic groups in entity governmental structures. The most significant changes to the RS Constitution created the RS Council of Peoples; established two RS vice presidents who would be from different ethnic groups than the RS president; specified a formula for ethnic representation in RS ministerial positions; and required that the RS civil service reflect the prewar ethnic composition of the RS. The Federation Constitution was amended to, among other things, add a Serb caucus to the Federation House of Peoples; specify a formula for ethnic representation in ministerial positions; and create a second vice presidential position.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

While monitors enjoyed relative freedom to investigate human rights abuses, they rarely were successful in persuading the authorities in all regions to respond to their recommendations. Monitors' interventions were often met with delays or categorical refusal by government authorities. There were no major incidents of violence against international community representatives.

The Government cooperated fully with international organizations such as the OHR, which has special powers over the BiH Government. The BiH Government also cooperated with other international organizations such as the UNHRC, ICRC, OSCE, and CRPC.

Although the RS National Assembly passed a law on cooperation with the ICTY in 2001, the RS made no effort to arrest indictees. In the eastern RS, Foca and Pale remained under sanctions for their noncooperation with the ICTY. The two most wanted Bosnian war crimes suspects, wartime commander of the RS Army Ratko Mladic and wartime RS President Radovan Karadzic, remained at large.

Many, if not most, of the perpetrators of killings and other brutal acts committed in previous years remained unpunished, including war criminals indicted by the ICTY, persons responsible for the approximately 8,000 killed by the Bosnian Serb Army after the fall of Srebrenica, and those responsible for approximately 16,019 others still missing and presumed killed as a result of "ethnic cleansing" in the country (see Section 1.b.).

During the year, SFOR arrested Naser Oric, who was indicted by the ICTY on charges of detaining Bosnian Serbs in the Srebrenica and Bratunac areas and subjecting them to physical abuse, which in some instances resulted in death, and cooperated in his transfer to the ICTY. At year's end, 17 arrest warrants remained outstanding, while 92 indictees had been transferred to the ICTY.

On March 10, Serbian police arrested Jovica Stanisic and Franko Simatovic, who were indicted by the ICTY in connection with charges of abusing Bosnian Croats and Bosnian Muslims within the so-called Serbian Autonomous District and territories in BiH. On April 5, Croatian police arrested Ivica Rajic who was indicted on charges that units of the HVO under his command killed 16 members of the civilian population of the village of Stupni Do. In addition to the arrests, three persons, Vojislav Seselj, Zeljko Mejakic, and Mitar Rasevic, indicted by the ICTY for war crimes and/or crimes against humanity committed in BiH during the 1992-1995 conflict, voluntarily surrendered.

The case in the ICTY against Slobodan Milosevic, the former President of Serbia and Montenegro (FRY) who is charged with 66 counts of crimes against humanity in Croatia and Kosovo and genocide in Bosnia and Herzegovina, remained ongoing at year's end.

On February 27, Biljana Plavsic was sentenced to 11 years in prison by the ICTY after pleading guilty to one count of persecution on racial, religious, and political grounds. The ICTY held 51 accused in custody, while 7 accused have been provisionally released.

The mandate for the Human Rights Commission for BiH, which consists of the Human Rights Chamber and the Human Rights Ombudsman, ended this year (see Section 1.e.). The Governments of both entities and the State of BiH signed an agreement to facilitate the transition of the Human Rights Chamber to a domestic institution, and the Human Rights Chamber ceased to exist on December 31. Under this agreement, the Constitutional Court of BiH will handle new human rights cases after January 1, 2004. The backlog of the Human Rights Chamber was transferred to the Constitutional Court, and a Human Rights Commission, consisting of five judges from the Human Rights Chamber, was appointed to address this backlog. Parties to the agreement also pledged to take necessary measures to ensure that all domestic courts can adequately address human rights by way of training for judges, prosecutors and lawyers.

The BiH Human Rights Ombudsman's mandate also ended on December 31. On November 7, the BiH Presidency selected three candidates, all active members of the three national parties (HDZ, SDA, SDS), to replace Frank Orton as BiH Ombudsperson. The BiH Parliamentary House of Peoples confirmed their appointment on November 28, and they are expected to assume their duties as BiH Ombudspersons in January 2004.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The BiH Constitution and the entities' Constitutions broadly prohibit discrimination on such grounds as sex, race, color, language, religion, political or other opinion, national or social origin, or association with a national minority; nevertheless, there were many cases of discrimination.

##### Women

Violence against women, including spousal abuse and rape, remained a widespread and underreported problem. While there were no updated figures available this year, the Helsinki Committee for Human Rights in BiH reported an increase in violence against women due to the deteriorating economic situation. A report by the International Helsinki Federation for Human Rights in 2001 estimated that approximately 30 percent of women in the country were victims of domestic violence; however, women's organizations such as Women for Women were concerned that abuse was more widespread than reported. Throughout the country, including in both Entities, rape and violent abuse are considered criminal offenses. Spousal rape and spousal abuse also are illegal in the Federation and the RS; however, domestic violence usually was not reported to the authorities. A sense of shame reportedly prevented some victims of rape from coming forward to complain to authorities. There was an increased police presence in the field, and NGOs working on women's issues were active and appealed to the Government and to the public numerous times to raise public awareness of the issue.

Police received specialized training to handle cases of domestic violence, and each police administration had its own domestic violence focal point. Nonetheless, there were reports of police inaction in cases of domestic violence and sexual assault. The S.O.S. Phone Service, a 24-hour hotline open to victims of domestic violence for assistance and counseling, did not appear to be operational this year. There were two shelters that provided assistance to women and children who were victims of domestic violence.

Trafficking in women for purposes of sexual exploitation was a serious problem (see Section 6.f.).

There were no laws prohibiting sexual harassment within any governmental units; however, some private and governmental organizations included rules against sexual harassment in their contracts or employee manuals. While there were no statistics on the extent of the problem, the media reported that sexual harassment was a very

serious problem that was poorly understood by the general population.

Discrimination against women did not significantly increase; however, a male-dominated society continued to prevail throughout the country, particularly in rural areas. Women served as judges, doctors, and professors, although few women were in positions of real economic or political power. Women have been discriminated against in the workplace in favor of demobilized soldiers. A small but increasing number of gender-related discrimination cases were documented. Anecdotal accounts indicated that women and men generally receive equal pay for equal work at government-owned enterprises but not always at private businesses. While women were legally entitled to 12 months' maternity leave, may not be required to work more than 4 hours per day until a child is 3 years old, and may not be required to perform shift work if they had underage children, women in all parts of the country encountered problems with regard to the nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers.

Women remained underrepresented in law enforcement agencies, although progress continued. According to guidelines for accreditation, police forces should allocate 10 percent of their positions for qualified female candidates. Most units had about 3 to 4 percent, although some had as many as 6 to 7 percent. Overall, the FMUP had 4.1 percent women police officers and the RSMUP had 17.3 percent women police officers. Several recent graduating classes from the country police academies contained up to 80 percent women.

### Children

The BiH Government was generally committed to the rights and welfare of children. The U.N. Convention on the Rights of the Child is incorporated by reference in the Dayton Accords and has the effect of law in both entities. Nevertheless, social services for children were in extremely short supply. Children with disabilities lacked sufficient medical care and educational opportunities.

Education was free and compulsory through the age of 15 in both the Federation and the RS; however, a lack of reliable statistics as to attendance and level of school completed hindered efforts to ensure that all school age children received an education.

The presence of Roma in schools was sporadic and Romani children were often absent from the later grades of primary and secondary schools. In Sarajevo's municipality Ilidza, for example, approximately 300 Romani children were unable to attend schools due to extremely poor living conditions, lack of proper clothing and the inability to purchase the necessary schoolbooks. These factors, often combined with verbal harassment from other students, language problems, and the costs and/or requirements of registration, were the most common reasons leading to the exclusion of Roma from schools, despite a willingness of many parents to enroll their children.

Medical care for children in the Federation was controlled solely at the Canton level. Therefore, whether or not children received any medical care from the Government depended on the budget of the Canton in which they lived. Medical care for children in the RS was controlled at the entity level (RS Ministry of Health). Children up to 15 years of age were entitled to medical care free of charge under the law; however, in practice, unless they had medical insurance paid for by their parents, children often did not receive medical care. There was no discrimination between boys and girls concerning medical care in the Federation or the RS.

Family violence against children was a problem, but there was no societal pattern of abuse against children. Police investigated and prosecuted individual cases of child abuse; however, no statistics on the prevalence of the problem were available. Children continued to suffer disproportionately from the societal stress of the postwar era.

Trafficking in girls for the purpose of sexual exploitation was a problem (see Section 6.f.).

According to statistics released in 2002 by the MoHRR, 118,785 of the 553,419 displaced persons from the country were children. In October, the MoHRR launched a re-registration process for displaced persons in BiH together with UNHCR.

One child was injured in a landmine incident during the year.

### Persons With Disabilities

The Federation Government is required by law to assist persons with disabilities to find employment and to protect them against discrimination. In the RS, the law also prohibits discrimination against persons with disabilities.



However, there was clear discrimination between different categories of people with disabilities and the vast majority of persons with disabilities were unemployed. For example, persons with disabilities resulting from the war were given a de facto privileged status that persons who were born with disabilities did not have.

Public institutions for persons with disabilities generally met minimum standards, although most lacked suitable funding. The legal status of institutions for persons with disabilities was not resolved following the breakup of the former FRY. As a result, local and entity Governments have no legal obligation to finance such institutions, and they operated only with BiH-level Government and international donations. A number of international and domestic NGOs assisted persons with disabilities in the country. For example, the International Human Rights Law Group formed a coalition of seven NGOs from Tuzla, Sarajevo and Dobo, and assisted these NGOs in coordinating activities and funding assistance programs.

In the Federation, the Law on Spatial Planning and Construction requires that all newly constructed buildings have access for persons with disabilities and that all old buildings have to be retrofitted to provide access within 5 years. Implementation of this law varied from Canton to Canton within the Federation, and was heavily dependent on the availability of funding; in practice, buildings rarely were accessible to persons with disabilities.

#### National/Racial/Ethnic Minorities

"Ethnic differences" remained a powerful political force in the country; however, mixed communities existed peacefully in a growing number of areas. To a limited extent, nationalist Bosnian Serb and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own ethnicity from returning to their prewar homes if they would be in the minority there. There was some improvement in the RS Government's attitude towards returns. The RS Government was increasingly supportive of Bosniak and Croat returns to the RS, and Bosniak returns to the Srebrenica area increased; however, the RS continued to support integration of displaced Bosnian Serbs within the RS using the war veterans' budget.

There were several incidents where opponents of refugee returns used violence, including sporadic house burnings, and orchestrated demonstrations in an effort to intimidate returnees. While the incidents of violence decreased overall in the country, follow-up investigations in a number of cases were problematic. Police consistently failed to apprehend offenders, with the exception of the attack against returnees in Srebrenica. On January 27, assailants broke the windows on two Bosniak returnees' houses in Potocari, Srebrenica, and tried to steal the van that was used by the workers of the company who were building the Potocari Memorial Center; the police promptly arrested initial suspects.

On January 3, an unknown perpetrator fired several shots from a machinegun at the house of a Bosniak returnee from Visici near Capljina. On January 23, unknown assailants stoned the Orthodox Church in Prijedor's settlement Kozarac, where several thousands of Bosniaks had returned, and destroyed several windows. On February 28, a handbomb exploded in a house of a Bosniak returnee in the Croat part of Mostar, killing two construction workers who were working on the returnee's apartment.

On March 6, a retired Serb returnee to western Mostar, Vasilija Skoro, was seriously injured in an explosion while he was preparing his house for reconstruction. On March 18, a Bosniak house was set on fire in the town of Stolac. On March 26, Vladimir Markanovic, a Bosnian Serb from Sarajevo currently displaced in Zvornik, attempted to kill Angelina Tomic, Chief of Department for Refugees in Zvornik. The Department had issued an eviction decision to Mr. Markanovic ordering him to vacate the property he was unlawfully occupying. Tomic sustained severe injuries, and Markanovic was arrested and had charges pressed against him.

In the beginning of April, there were several attacks targeting minority returnees, including firing shells on Bosniak returnees to the Sepak settlement near Zvornik. On April 16, an explosive device was thrown at the house of Bosniak returnee, Said Jakupovic, from Kozarac, Prijedor Municipality. On April 28, Serb returnees were attacked in Sizje village, near Lukavac. This was just one of a number of attacks on these returnees in a short period of time. The police reportedly apprehended three persons suspected of attacking the returnees.

On November 8, an unknown man attacked Nihada Behadzic, a Bosniak returnee to Derventa municipality. Nihada, who had been living as an IDP in Orasje since 1992, sustained severe stomach and neck injuries. On November 25, there were several incidents in Stolac with possible ethnic motivation, linked to the Bayram celebration. Some young Bosniaks insulted and provoked Croat citizens, including a Catholic nun.

Harassment and discrimination against minorities continued throughout the country, often centering on property disputes, despite improvements in some areas. These problems included desecration of graves, arson, damage to

houses of worship, throwing explosive devices into residential areas, harassment, dismissal from work, threats, and assaults.

Discrimination in employment and education remained key obstacles to sustainable returns. Widespread firing of ethnic minorities during and after the war has not been reversed in most cases, and members of the ethnic majority in a region often were hired over minorities in places where they had been employees. Favoritism was also shown to veterans and families of those killed during the war.

Roma, estimated to be 40,000 to 60,000, faced serious difficulties in exercising the full range of fundamental human rights guaranteed to them under the BiH Constitution. Of particular concern were issues regarding property rights and access to personal documents. Roma displaced from their property during the war had difficulty repossessing their property because of discrimination and lack of adequate information on the necessary procedures. Individuals who were allocated social housing before the war often remained without housing. Those living in informal settlements were left in a precarious situation as the land on which they resided could be reallocated by local authorities, at any time. Lack of ownership documents also hampered repossession of property and the provision of reconstruction assistance in cases where housing was destroyed during the war. Lack of personal documents caused many Roma to be excluded from public life because they lacked birth certificates, identification cards or a registered residence. Many Roma also could not access health care or register to vote. Only a small number of Romani adults were in full time employment and Roma were often denied social support; many relied on begging to subsist, particularly Romani children.

Roma continued to lack access to education. Students in minority areas frequently faced a hostile environment in schools that did not provide an ethnically neutral setting. Obstruction by nationalist politicians and government officials slowed international efforts to remove discriminatory material from textbooks, abolish school segregation, and enact other needed reforms. At the elementary and secondary school level, canton governments in the Federation and the central Ministry in the RS politically pressured school directors. Several schools were directed by hard-line political figures. A lack of financial resources led to teacher strikes in the RS and in individual cantons in the Federation.

In many instances, compromises fell far short of integrating minority students into some schools. Administration and legal unification of the 52 cases of "two schools under one roof," with separate classes for Bosnian Croats and Bosniaks, did not lead to integrated classrooms, although shared extra-curricular activities, school entrances and recreation facilities often resulted. Segregation and discrimination were entrenched in many schools, particularly in the teaching of national history and religious education. In the RS, non-Serb teaching staff at elementary and secondary school levels remained below 5 percent of all teaching staff. In the Federation, minority teachers comprised between 5 and 8 percent of all teachers, depending on the Canton. While Romani children were permitted to attend schools in all areas of the country, their attendance was often low due to both pressure from within their own community and from local non-Roma communities discouraging Romani children from attending their schools.

Officials took steps during the year towards actual integration. The Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children, signed in 2001, was partially implemented through working groups in both entities, with moderate progress made in eliminating educational obstacles for returnee children.

The full integration of elementary and high school classrooms in the Brcko District continued to be successful. So-called national subjects (language, history, and music) were offered separately as afternoon "elective" classes, but materials that could be hateful or offensive to others were eliminated. Language questions were resolved by using both Latin and Cyrillic script, and by requirements that teachers not penalize students for lexicon or grammar usage identified more with one language variant than another.

In March, an Inter-Entity Textbook Review Commission was re-established, with a mandate to review textbooks from the so-called national group of subjects that were in use in all primary and secondary schools in the country. The process was completed prior to the 2003-04 school year, and although some textbooks were not granted approval, no significant violations were reported. However, there were textbooks in use outside the so-called national group of subjects that were not subject to the review process but contained material that was inappropriate. For example, the textbooks on politics and economics used in schools following the curriculum in Bosnian Croat majority cantons were produced in Croatia and contained material considered slanderous and hurtful to Serbs. Other cases were less explicit but were recognized as inappropriate or controversial.

In the area of civic education, the course on "Democracy and Human Rights" continued to be taught in high schools in all areas of the country, using the first truly joint curriculum. The course was developed by donors and

international organizations working closely with Bosnian educators and was officially accepted by the Canton and entity-level Education Ministries and the Brcko District Department of Education.

During the year, the MoHRR created an "Advisory Board for Roma," comprised of nine Romani representatives and nine members of different state level and entity ministries, to work on Romani issues. The Board met several times, but the Ministry ceased to convene the meetings due to lack of finances to cover the expenses of meetings.

## Section 6 Worker Rights

### a. The Right of Association

There are no legal restrictions on the forming of unions or on who may join unions; both entities' Constitutions and labor laws provide this right. Additionally, the country has four labor laws (one for the state level, one for each entity, and one for the Brcko district) which provide for the right of workers to form and join unions.

The right of minority workers to join unions is protected in both entities; however, in practice, union membership in the RS was overwhelmingly Bosnian Serb and in the Federation overwhelmingly Bosniak. Bosnian Croats had informal labor organizations in areas where they were the dominant ethnic group, but generally they were represented by the Federation union. A joint-entity multi-ethnic union continued to operate in the district of Brcko. Although the 2001 BiH-level Law on Associations removed legal obstacles to the creation of unions at the BiH level, no such unions existed.

Union membership was mandatory for all officially employed workers in the RS but optional in the Federation. Consequently, approximately 70 percent of officially employed workers in the Federation were union members.

Even though unions are legally independent of the Government and political parties, they were highly politicized. In practice, in each entity, one union confederation represented all workers in that entity.

The Law on Labor in both entities prohibits discrimination by employers against union members and organizers, in accordance with International Labor Organization (ILO) standards; however, this kind of discrimination continued. Employers often mistreated workers employed in private companies; however, employees usually did not strike out of fear of being immediately fired in retaliation.

Unions are free to form or join federations or confederations and affiliate with international bodies; however, no unions have done so in practice.

### b. The Right to Organize and Bargain Collectively

Collective bargaining is provided for in the Law on Working Relations in the RS and in a comprehensive collective bargaining agreement in the Federation; however, collective bargaining was rarely used. In addition, the collective bargaining agreements appeared to apply only to public sector and government-owned enterprises, leaving private businesses uncertain about their status under the general collective bargaining agreements. The BiH Association of Employers was created to address this problem; however, no progress had been made by year's end. In September, the Socio-Economic Council, made up of representatives from trade unions, the Federation Government, and the Association of Employers, was established in the Federation to improve existing labor legislation and encourage job creation; however, it faced problems financing its activities.

The Government remained highly influential, particularly in the RS, in determining the overall level of wages for government employees in each entity. The Federation Government reduced all expenditures by 10 percent including wages of all budget users, which created problems in some independent agencies.

Unions have the right to strike, and they used this right to press for payment of overdue salaries or wages; protest or demand changes in management; and voice their opinion on economic reform and government policy. Protests rather than court cases often induced faster government action on paying salaries and wages and removal of management. Most strikes were legal; however, in an attempt to avoid negotiations, the Government claimed that some were illegal on the grounds that they were not announced the required 48 hours in advance. A Law on Strikes governs strike activity in both entities, and retaliation against strikers is prohibited.

On September 20, approximately 13,000 pensioners from the Federation gathered in front of the Federation government building to protest the Government's failure to pay pensions and to demand that pensions be raised.

When government officials did not talk with them, they tried to enter the government building and were prevented from doing so by the police. After the Federation pensioners protested, large numbers of pensioners in the RS followed suit and likewise protested in front of the RS government building in Banja Luka.

There were several major strikes during the year, including those by factory workers and teachers, to demand payment of arrears in salaries of several months or more or to protest the unsuccessful privatization of large factories. At the beginning of the year, coal miners in Zenica conducted a hunger strike to protest wage arrears; these workers stopped their strike after a meeting with the Federation Prime Minister, where some of their requests were met. The workers of recently privatized company Zitoprerada Bihac went on a hunger strike, which resulted in the arrest of the new owner and cancellation of the privatization contract. Courts continued to hear labor disputes.

The FBiH Trade Union Confederation advocated a revision of the entire privatization process. Consequently, FBiH Trade Union Confederation leader Edhem Biber received death threats for pushing this initiative.

The strike of chemical workers at the Calcine factory ended during the year after Federation and Cantonal Governments in Tuzla complied with some of the strikers' requests.

Unions in the country were fragmented into sectors and divided along ethnic lines, weakening their potential impact. Unions had little experience in conducting effective strikes or bargaining negotiations. Workers often were left to organize themselves at the level of the company. Workers were afraid to strike for fear of losing what few social benefits they received from the companies.

There are 11 special economic areas called Free Zones in the country, for the purpose of manufacturing and related services, where customs duties do not have to be paid. There are no special laws or exemptions from regular labor laws in these zones, and workers' rights were not restricted.

#### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment of children in the Federation and in the RS is 15 years. The Law on Labor prohibits children from performing hazardous work, such as night work. While it was unclear how strictly these laws were enforced, strong cultural norms against non-farm child labor effectively discouraged the practice in the country. Although child labor was not known to be a problem, children sometimes assisted their families with farm work and odd jobs. Romani children often begged on the streets, particularly in Sarajevo.

The country ratified the ILO Convention 182 concerning the worst forms of child labor in 1991; however, the Government had not signed it by year's end. There were no social programs to prevent the engagement of children in exploitative child labor.

#### e. Acceptable Conditions of Work

The minimum monthly wage in the Federation was \$186.60 (290 KM) and in the RS it was \$43.75 (68 KM); neither minimum wage provided a decent standard of living for a worker and family. Many workers have outstanding claims for payment of salaries and pensions. Employees are required by law in both entities to make mandatory contributions to social funds; in total, the contribution paid on each monthly salary was 68 percent in the Federation and 50 percent in the RS. Employers often did not officially register their employees in order to avoid paying high social welfare benefits.

The legal workweek was 40 hours under both the Federation and the RS entity law; however, seasonal workers may work up to 60 hours per week. The laws of both entities require that employers pay overtime to employees. Overtime is limited to 20 hours (10 mandatory and 10 voluntary) in the Federation. In the RS, overtime was limited to 10 hours, although an employee may volunteer for an additional 10 hours in exceptional circumstances. Rules regarding rest and vacation varied, although typically no vacation was granted during the first 6 months of employment, and 18 days per year were granted after that period.

Occupational safety and health regulations generally were ignored. At year's end, neither entity had completed

passage of new laws to enforce international worker rights standards. Workers could not remove themselves from hazardous working conditions without endangering their continued employment.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons remained a serious problem. There were reports that police and other officials were involved in trafficking.

The BiH Government implemented a new Criminal Code and CPC in March, making trafficking in persons a State-level crime with a sentence of up to 10 years. The Federation and the RS implemented harmonizing criminal codes in August and July, respectively. In January, BiH also created a BiH State-level MoS that is responsible for coordinating law enforcement activities at all levels of Government. Implementation of these new laws, centralization of the government agencies that fight trafficking, and increased coordination between non-governmental organizations and law enforcement enhanced BiH's ability to combat trafficking.

BiH authorities intensified their efforts to combat trafficking during the year. In addition to passing the CPC and establishing the MoS, the BiH State Prosecutor's Office was established in June. The State Prosecutor has exclusive jurisdiction over all trafficking cases and can decide which cases to prosecute at the BiH State level, and which cases to send to the entity levels. In July, the BiH Government appointed a National Coordinator for Anti-Trafficking, whose mandate includes coordination of victim protection efforts among NGOs, police, and government institutions, as well as coordination of law enforcement initiatives. Also as part of these restructuring efforts, the former BiH level anti-trafficking commission that reported to the BiH MoHRR now reports directly to the newly formed MoS. In October, the National Coordinator for Anti-Trafficking rolled out a new National Action Plan.

In 2002, the BiH Council of Ministers, both entities, and the Brcko District agreed to form the country's first nationwide interagency investigative task force (the strikeforce) to combat organized crime. The strikeforce is chaired by the new BiH Prosecutor and includes prosecutors, police, and financial investigators. It specifically targets trafficking and illegal migration. The strikeforce's investigations also resulted in the prosecution and conviction of one trafficking kingpin, sentenced in 2002 to 1 year and 6 months in prison by the Brcko District Court for promoting prostitution.

The anti-trafficking actions of local authorities were coordinated within this newly established centralized State-level framework for fighting trafficking. For example, the IPTF-initiated Special Trafficking Operations Program was replaced by an initiative led by local authorities in coordination with the EUPM, the FIGHT initiative. In August, the owner of Club Edo in Kiseljak was arrested for trafficking, and 13 of the women working in his bar were taken to the Forum of Solidarity, a local NGO that provides shelter to trafficking victims. However, none of the 13 women were identified as trafficking victims by the BiH Government and were deported from the country 2 months later. The club owner paid bail and was released from prison; the investigation continued at year's end.

Local police involvement was primary, with EUPM involvement in actual operational and organizational issues limited to an advisory capacity. Under the FIGHT team initiative, each local government unit has one dedicated trafficking officer, and these officers are coordinated through their respective entity MUP. Each entity MUP is represented on the BiH State level Anti-Trafficking Strikeforce, allowing state-level Strikeforce investigations to regularly benefit from local-level, on-the-ground investigation and intelligence work. BiH also participated again in the Southeast Europe Cooperative Initiative (SECI) regional anti-trafficking effort in September, which focused on a series of police raids and border inspections coordinated with other SECI member states. During September, in Operation Mirage II, BiH police conducted raids on 114 locations with suspected involvement in human trafficking. Six individuals were arrested for trafficking, and charges against three of the six were subsequently filed. An EUPM report noted that, during the period from January to May, FIGHT teams made a significant number of arrests that led to prosecutions. Specifically, there were 128 night-bar raids throughout the country, resulting in 21 indictments for human trafficking and sex crimes.

In September, in Brcko District, criminal charges were lodged against four people for intermediation in performing prostitution. Two of the four were indicted and the others remained at large. One of the indictees is Marijan Jurkovic, an alleged trafficking kingpin in BiH. In November, Milorad Milakovic and 17 fellow alleged traffickers were indicted on charges of organized crime and trafficking in persons, for which they could face up to 20 years in prison.

The country was a destination and transit point, and to a lesser extent a country of origin, for women and girls trafficked for sexual exploitation. The country was vulnerable to trafficking in persons because effective strategies to combat trafficking were previously hindered by an outdated criminal code and a confusing set of legal institutions

that left police and prosecutors unable to take effective measures against trafficking. In addition, there were allegations of corruption and official involvement in trafficking. There were no current estimates on the number of trafficked women and previous estimates varied considerably. From data collected by the U.N. Mission in Bosnia and Herzegovina and the International Organization for Migration (IOM), it was estimated that in previous years there were 3,000 women who engaged in prostitution in the country, of which approximately 25 to 30 percent were thought to be victimized through coercion or deception; approximately 13 percent of victims were under 18. Since 1999, the IOM has assisted 717 women, 553 of whom sought repatriation.

Over 90 percent of trafficked women in the country came from Moldova, Romania, and Ukraine. A significant number may have transited on to Western Europe, but no reliable estimates were available. According to the IOM, most victims reported being lured by false job offers, such as advertisements offering work in Italy or Germany as dancers, waitresses, and domestic servants. Most trafficked women entered the country through Serbia-Montenegro. Those who transited the country continued via Croatia. The IOM reported Bosnian victims in other parts of Europe and local NGOs observed some Bosnian victims within the country.

The perpetrators of trafficking came from a variety of backgrounds, including freelance operators, local crime gangs, and large international organized crime syndicates. Some employment, travel, and tourist agencies also fronted for traffickers.

Because of prior raids conducted on nightclubs, bars, and restaurants, traffickers moved their operations to private residences or began moving them around to evade arrest. Victims reported working in conditions akin to slavery, with little or no financial support, coerced by intimidation, seizure of passports, withholding of food and medical care, and even physical and sexual assaults.

While there continued to be reports of police and other official involvement in trafficking, particularly at the local level, the Government addressed this issue by establishing PSUs within each MUP. The PSUs have authority to investigate and dismiss police officers for corruption and have the ability to recommend both administrative and criminal action against police engaging in illegal activities. However, there was only one trafficking related PSU investigation in the District of Brcko; past trafficking in persons-related corruption investigations led to dismissal and prosecution of officers. Although the presence of international civilian and military personnel has contributed to the trafficking problem, the local population actively sustained it.

Local officials in some areas allowed foreign women to work in bars and nightclubs with questionable work and residence permits. Law enforcement officials in both entities asserted that they reduced the number of foreign citizens working in bars. An RS Interior Ministry official stated in 2002 that the number of foreign female bar employees with valid work permits was down to 51, compared with 470 a year previously. Nonetheless, there were reports that visas were issued improperly at the country's embassies in the region. The Ministry of Civil Affairs initiated a plan to link all BiH Embassies around the world to a centralized database, located in the National Network Operations Center to allow for greater control of the approval process for visas; however, the centralized database had not begun by year's end.

The National Action Plan included initiatives to strengthen victims' assistance programs, including a plan to establish a state-run women's shelter; at year's end, the local NGO Forum of Solidarity, based in Tuzla, was selected as the NGO partner for the shelter. There were three primary trafficking NGOs in the country: Lara in Bijelina, La Strada in Mostar, and Forum Solidarnosti in Tuzla. During the year, NGO's assisted 90 victims of trafficking. These women were provided basic shelter, medical, psychological, and legal assistance.

In July, the BiH Government adopted a new Law on the Movement and Stay of Aliens and Asylum. This law includes specific provisions directed towards trafficking victims that provide for temporary asylum to allow rehabilitation and protective services to be provided to victims. During the year, the IOM managed two long-term shelters where victims received medical attention, counseling, and assistance in repatriation. It also had 6 safe houses in various parts of the country, augmented by 2 additional safe houses run by local NGOs. Police protection was provided for the shelters. Despite these programs, the IOM and other sources reported that fewer victims sought assistance during the year, and that shelters were not fully utilized. NGO employees reported that women told them that they did not trust local police and feared traffickers would not hesitate to pursue them if they left. With international assistance, local authorities and NGOs cooperated more to assist and protect victims.

The IOM initiated a preventative information campaign against human trafficking geared toward at-risk youth and victims of trafficking. The campaign defined trafficking as well as provided information about services available to trafficking victims. Other NGOs continued to be actively engaged in similar campaigns.

The media focused attention on the human costs of trafficking, as well as the responsibility of the authorities to combat the problem. Newspapers reported frequently on law enforcement actions against traffickers, as well as on allegations of involvement by police.